THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.24081 OF 1997

DATED: 21-06-2007

Between :

Smt. N. Hamsavenamma and 2 others. .. Petitioners

And

The Tirumala Tirupati Devasthanams, rep. By its Executive Officer, Tirupathi
And another. .. Respondents

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WRIT PETITION NO.24081 OF 1997

ORDER :

The petitioners claim to be the owners of small extents of land situated in TS.No.3, Ward No.3, Block-B of Tirumala which is known as Pullareddy Thota. The said land was acquired under the provisions of the Land Acquisition Act, 1894 (for short, 'the Act') for the purpose of development of Tirumala as per the Master Plan and it is not in dispute that the petitioners were paid the compensation as fixed under the Award dated 11-3-1991 by the Special Deputy Collector. However, there was also a proposal to provide alternative site to the land owners and approving the same Resolution No.346, dated 5-7-1990 was passed by the Board of Trustees of Tirumala Tirupati Devasthanams (T.T.D.). Alleging that the said resolution was not implemented, the petitioners earlier filed W.P.No.13506 of 1991 and the same was disposed of by this Court by order dated 11-10-1991 with a direction to the respondents to dispose of the representations of the petitioners according to Resolution No.346, dated 5-7-1990. Pursuant thereto, the Executive Officer, T.T.D. vide proceedings dated 29-9-1992 allotted house plots bearing Nos.12, 13 & 53 to the petitioners on lease basis for a period of 20 years. Even the said proceedings have not been implemented in spite of the repeated representations made by the petitioners. However, the respondents were proceeding with constructions in the lands acquired from the petitioners. Hence, this writ petition seeking a declaration that the action of the 1st respondent in not handing over the

possession of the Plot Nos.12, 13 & 53 allotted vide proceedings of the 1st respondent dated 29-9-1992 as arbitrary and illegal.

On behalf of the respondents, a detailed counter-affidavit has been filed stating that though the Government issued G.O.Ms.No.60, dated 29-1-1993 directing implementation of Resolution No.346, dated 5-7-1990 and similar Resolution No.671, dated 11-11-1990, and the same were reiterated in Resolution No.1306 dated, 31-3-1994, Resolution No.585, dated 31-8-1994 and Resolution No.921, dated 8-12-1994, however the implementation of all the said Resolutions were stayed by the Government vide G.O.Ms.No.510, dated 28-6-1996 in exercise of the powers conferred under Section 121 (2) of the A.P. Charitable and Hindu Religious Institutions & Endowments Act 30 of 1987 pending exercise of the powers under Section 121(1). The Government simultaneously had issued G.O.Ms.No.511, dated 28-6-1996 staying the execution of Resolution Nos.159 and 662 dated 28-5-1992 and 19-11-1992 respectively relating to the land in Ananthapalli Gunta. It is also stated that all the petitioners have received compensation awarded to them by the Land Acquisition Officer vide Award dated 11-3-1991 and subsequently this Court by order dated 11-10-1991 in W.P.No.13506 of 1991 directed the respondents to consider the request of the petitioners for allotment of alternative sites in accordance with Resolution No.346, dated 5-7-1990 and till the disposal of the representations not to evict them from the respective premises. However, the plots earmarked to the petitioners in pursuance of Resolution No.346, dated 5-7-1990 could not be delivered due to the orders of suspension passed by the Government pending the proceedings under Section 121 (1) of the Act 30 of 1987.

I have heard the learned Counsel for both the parties and perused the material on record.

It is relevant to note that the Resolution No.346, dated 5-7-1990 along with similar other Resolutions approving allotment of

alternative land was stayed by the State Government vide G.O.Ms.No.511, dated 28-6-1996 issued in exercise of the powers under Section 121 (2) of A.P. Charitable and Hindu Religious Institutions & Endowments Act, 1987 (for short, 'Act 30 of 1987). Thereafter, notices were issued to all the affected persons as to the proposed action under Section 121 (1) of Act 30 of 1987. Questioning the said action of the respondents, several affected persons filed writ petitions viz., W.P.No.22238 of 1997 & batch. All the said writ petitions were disposed of by a common order dated 7-4-2000 with a direction to the Government to issue fresh show-cause notices. The said order was confirmed by a Division Bench on appeal. Pursuant thereto, fresh show-cause notices were issued to all the interested persons and after hearing all the parties the Government vide G.O.Ms.No.528, dated 31-8-2002 cancelled the Resolutions providing for allotment of alternative lands. The said G.O.Ms.No.528, dated 31-8-2002 has become final. In the circumstances, the rights claimed by the petitioners herein by virtue of the allotment made by proceedings dated 29-9-1992 based upon the Resolution No.346, dated 5-7-1990 stood extinguished. Hence the contention that the respondents are bound to hand over the possession of the plots in question is untenable.

It is also relevant to note that under similar circumstances the Government passed orders vide G.O.Ms.No.529, dated 31-8-2002 cancelling the Resolution No.159, dated 28-5-1992 under which some other displaced persons were allotted alternative land situated in Ananthapalli Gunta on lease basis. The said G.O.Ms.No.529, dated 31-8-2002 was challenged by the aggrieved parties in W.P.Nos.19149 & 20009 of 2002. The contention of the petitioners therein that it is not open to the respondents to go back and cancel the allotment of alternative land was rejected by this Court and the writ petitions were disposed of by order dated 18-7-2003 holding that there was absolutely no scope under the provisions of

the Land Acquisition Act to provide any alternative land to the persons whose lands were acquired by paying due compensation. It was also held that providing such alternative land on Tirumala Hills even on lease basis was quite contrary to the provisions of the Act and the Rules made thereunder. It was also made clear by this Court that since the Resolutions in question allotting alternative land were contrary to the Statutory Rules, it was not open to the petitioners therein to invoke the principle of Promissory Estoppel. The said order was confirmed by a Division Bench by Judgment dated 23-1-2004.

Since the petitioners herein also stand on the same footing and have come up with an identical claim, the ratio laid down in the above decision is squarely attracted and the claim of the petitioners to hand over the alternative sites allotted to them cannot be accepted.

In the additional counter-affidavit filed by the T.T.D., dated 20-2-2007, it is stated that subsequent to cancellation of the Resolutions, the TTD had constructed quarters for its employees in the plots said to have been allotted in favour of the petitioners. Since the petitioners never challenged the said action of the respondents and they did not even question the cancellation of the Resolutions vide G.O.Ms.No.528, dated 31-8-2002, on that ground also the writ petition is liable to be dismissed in limini as infructuous.

The decision of the Supreme Court in LOK SEWA SHIKSHAN MANDAL vs. A.R. MUNDHADA CHARITABLE TRUST & ORS.[1] cited by the learned Counsel for the petitioners is clearly distinguishable on facts and the ratio laid down therein has no application to the case on hand.

Viewed from any angle, the Writ Petition is devoid of any merit and the same is accordingly dismissed. No costs.

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G. ROHINI, J.

Dt. 21-06-2007
gbs

[1] 2007 (5) SCALE 618